IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 20TH NOVEMBER 2007 / 29TH KARTHIKA 1929

Crl.Rev.Pet.No. 199 of 1998()

CC.1092/1993 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOLLAM

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REVN. PETITIONER:

SUKUMARAN
S/O.KRISHNAN
KAYITHENGIL HOUSE
MEENATHU CHERIYIL
SHAKTHIKULANGARA VILLAGE
KOLLAM.

BY ADV. SRI.R.BINDU (SASTHAMANGALAM)

RESPONDENTS:

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1. PRATHAP
   S/O.RAMACHANDRAN
   SUMA NIVAS, MEENATHU CHERI
   SAKTHIKULANGARA VILLAGE

2. PRADEEP

   -DO-

3. STATE REPRESENTED BY THE
   PUBLIC PROSECUTOR
   HIGH COURT OF KERALA
   ERNAKULAM.

BY ADV. SRI.M.BALAGOVINDAN
BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 20/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.R.P.NOS. 199 OF 1998 & 2585 OF 2004

DATED THIS THE 20TH NOVEMBER 2007

ORDER

Crl.R.P.No.199/998 is filed by the de facto complainant in C.C.No.1092/1993 in the court of Judicial Magistrate of First Class-II, Kollam with respect to the offences under Sections 324 and 326 read with Section 34 I.P.C. It is his grievance that the sentences imposed on accused 1 and 2 are not adequate and is disproportionate to the gravity of the offences committed. Crl.R.P.No.2585/2004 is filed by accused 1 and 2 in C.C.No.1092/1993 who stand convicted and sentenced as modified by the appellate court to undergo rigorous imprisonment for two years each for the offence under Section 326 read with Section 34 I.P.C.and to undergo rigorous imprisonment for six months each for the offence under Section 324 read with Section 34 I.P.C.and also to pay a compensation for Rs.20,000/- each to PW2 and in default to undergo simple imprisonment for six months each. The substantive sentences are to run concurrently. It is submitted that Crl.R.P.No.199/1998 was filed by the de facto complainant questioning the adequacy of the sentences imposed by the trial court and that in the meantime the appellate court disposed of the appeal filed by the accused reducing the sentences from three years rigorous

imprisonment to two years for the offence under Section 326 read with Section 34 I.P.C.and from one year rigorous imprisonment to six months rigorous imprisonment for the offence under Section 324 I.P.C.and further the compensation was provided. In the circumstances, I find that criminal revision petition No.199/1998 is infructuous and hence liable to be dismissed.

2. Counsel for the revision petitioners in Crl.R.P.No.2585/2004 has only sought for leniency so far as the sentence imposed is concerned. It is submitted that the accused who are brothers are very young at the time of occurrence, i.e.20 years and 19 years respectively. Further PW2 is a close relative of Accused 1 and 2. The de facto complainant is the maternal aunt's husband of the accused and there was serious property dispute and civil case pending in between them. Counsel appearing for the revision petitioners has also pointed out that 14 years have elapsed since the date of the incident and so long the revision petitioners were facing the criminal proceedings and living under severe strain. Further their situation in life has considerably changed and families consisting of wives and children are depending on them. Of course, PW2 had sustained serious injuries, i.e. fracture of tibia of both legs. It is also mentioned that right now PW2 the de facto complainant is aged 80 years. In the

circumstances, the sentence imposed for the offence under Section 326 read with Section 34 I.P.C.is modified to imprisonment till rising of the court and to pay a compensation of Rs.2,00,000/- (Rupees two lakhs) each to Pw2and in default to undergo simple imprisonment for one year each. They are also sentenced to pay a fine of Rs.5,000/- each and in default to undergo simple imprisonment for one month each for the offence under Section 324 I.P.C. The sentence imposed by the lower appellate court shall stand modified accordingly. The revision petitioners are granted three months time to remit the amount of compensation. They shall appear before the Judicial First Class-II, Kollam on 22-2-2008 to receive sentence. The criminal revision petition is disposed of accordingly.

K.R.UDAYABHANU, JUDGE

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K.R.UDAYABHANU, J

CRL.R.P. NO. 199/1998 &
2585/2004

ORDER

20-11-2007

K.R.UDAYABHANU, J

CRL.R.P. NO. 691 OF 2001
& CRL.M.C.NO. 7139 OF
2001

ORDER

13-9-2007